

REDACTED

BEFORE THE DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

ADOLPHUS A. BERGER, M.D.  
License No. A04344

Respondent.

NO. D-2363

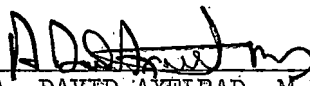
DECISION

The attached Stipulation is hereby adopted by the Division  
of Medical Quality of the Board of Medical Quality Assurance as its  
Decision in the above-entitled matter.

This Decision shall become effective on April 25, 1980.

IT IS SO ORDERED March 26, 1980.

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE

  
A. DAVID AXELRAD, M.D.  
Secretary-Treasurer

GEORGE DEUKMEJIAN, Attorney General  
of the State of California  
DAVID M. GALIE  
Deputy Attorney General  
6000 State Building  
San Francisco, California 94102  
Telephone: (415) 557-0752

Attorneys for the Board of  
Medical Quality Assurance

BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE  
DIVISION OF MEDICAL QUALITY  
STATE OF CALIFORNIA

In the Matter of the Accusation

Against:

ADOLPHUS A. BERGER, M.D.  
2107 Van Ness Avenue, Suite 410  
San Francisco, CA  
License No. AO-4344

Respondent.

No. D-2363

STIPULATION

IT IS HEREBY STIPULATED by and between Adolphus A. Berger, M.D. (hereinafter "respondent") with the advice and consent of his attorney James J. Reilly, Esq., and the Division of Medical Quality of the Board of Medical Quality Assurance (hereinafter "Division") by and through its attorney David M. Galie, Deputy Attorney General as follows:

1. That Adolphus A. Berger, M.D. will voluntarily surrender his license (number AO-4344) to the Division on or before April 30, 1980.

2. That within five years of the effective date of this decision, respondent may reapply for and obtain a new

1 license subject to the following conditions:

2 (a) That he has not committed acts or crimes  
3 constituting grounds for denial of licensure under section 480  
4 of the Business and Professions Code;

5 (b) That he take and pass the examination, if any,  
6 which would be required of him if he were then applying for the  
7 license for the first time, or otherwise establishes to the  
8 satisfaction of the Division of Licensing, of the Board of  
9 Medical Quality Assurance that, with due regard for the public  
10 interest, he is qualified to practice medicine.

11 3. In consideration for the voluntary surrender of  
12 license number AO-4344, the Division agrees to dismiss  
13 Accusation Number D-2363, presently on file before the Board  
14 of Medical Quality Assurance, Division of Medical Quality.

15 4. The parties hereto agree that the terms and  
16 conditions as set forth herein shall be null and void and  
17 not binding upon them unless approved and adopted by the Division.

18  
19 DATED: Jan 14, 1980

Adolphus A. Berger, M.D.  
ADOLPHUS A. BERGER, M.D.  
Respondent

20  
21  
22 DATED: Jan. 14, 1980

James J. Reilly, Esq.  
JAMES J. REILLY, ESQ.  
Attorney for Respondent

23  
24  
25 DATED: January 17, 1980

David M. Galie  
DAVID M. GALIE, Deputy  
Attorney General  
Attorney for the Division of  
Medical Quality, Board of  
Medical Quality Assurance

1 GEORGE DEUKMEJIAN, Attorney General  
2 of the State of California  
3 DAVID M. GALIE  
4 Deputy Attorney General  
5 6000 State Building  
6 San Francisco, CA 94102  
7 Telephone: (415) 557-0752

8 Attorneys for the Board of  
9 Medical Quality Assurance  
10

11 BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE

12 DIVISION OF MEDICAL QUALITY

13 STATE OF CALIFORNIA

14 In the Matter of the Accusation ) NO. D-2363

15 Against: ) ACCUSATION

16 ADOLPHUS A. BERGER, M.D.  
17 2107 Van Ness Avenue, Suite 410  
18 San Francisco, CA  
19 License No. AO-4344

20 Respondent.  
21

22 Comes now Robert Rowland who charges and alleges as  
23 follows:

24 1. That he is the Executive Secretary of the Board of  
25 Medical Quality Assurance and makes these charges and allegations  
26 in his official capacity. All section references are to the  
27 Business and Professions Code unless otherwise noted.

28 2. That on or about December 1, 1926, respondent was  
29 issued Certificate No. AO-4344. On or about July 30, 1955, this  
30 certificate was revoked, stayed; and placed on five years  
31 probation. Probation was terminated on July 30, 1960. A true  
32 and correct copy of the Decision in that matter is attached hereto

1 as Exhibit A, and incorporated herein by this reference.

2 3. Quaalude is a trade name for the generic substance  
3 methaqualone, which is a controlled substance as defined in  
4 Schedule III, section 11056 of the Health and Safety Code, and  
5 a dangerous drug under section 4211.

6 4. Ritalin is a trade name for the generic substance  
7 methylphenidate HCL, which is a controlled substance as defined  
8 in Schedule II, section 11055(d)(4) of the Health and Safety  
9 Code, and dangerous drug under section 4211.

10 5. Seconal is a trade name for the generic substance  
11 secobarbital, which is a controlled substance as defined in  
12 Schedule III, section 11056 of the Health and Safety Code, and  
13 a dangerous drug under section 4211.

14 6. Dexedrine is a trade name for the generic substance  
15 d-amphetamine SO4, which is a controlled substance as defined in  
16 Schedule II, section 11055 of the Health and Safety Code, and a  
17 dangerous drug under section 4211.

18 7. On or about the dates listed below, respondent  
19 prescribed the controlled substances and/or dangerous drugs to  
20 the named individuals, without a good faith prior examination and  
21 medical indication therefor, and when the named persons were not  
22 under his treatment for a pathology or condition;

23	<u>Name</u>	<u>Date Prescribed</u>	<u>Controlled Substance</u>	<u>Unit</u>
24	Janet S [REDACTED] (Barbara Detro)	2-9-76	Dexedrine 5mg.	50
25	Sharon D [REDACTED]	2-12-76	Seconal 100mg.	50
26	Eve C [REDACTED]	2-12-76	Ritalin 20mg.	36
27	Linda W [REDACTED] (Linda Willoughby)	2-12-76	Quaalude 300mg.	36

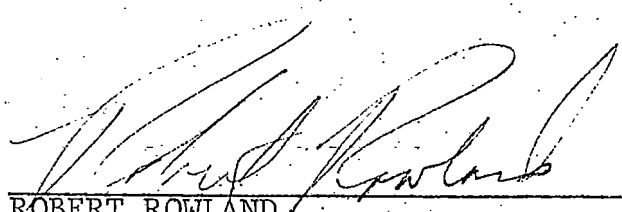
Name	Date Prescribed	Controlled Substance	Unit
Eve C [REDACTED]	2-24-76	Quaalude 300mg.	36
Sharon D [REDACTED]	2-24-76	Ritalin 20mg.	36
Janet S [REDACTED] (Barbara Detro)	3-18-76	Dexedrine 5mg.	50
Janet S [REDACTED] (Barbara Detro)	1-16-79	Dexedrine 5mg.	50
Janet S [REDACTED] (Barbara Detro)	3-13-79	Dexedrine 5mg.	50
Janet S [REDACTED] (Barbara Detro)	4-24-79	Dexedrine 5mg.	36

8. Prescribing controlled substances and/or dangerous drugs without a good faith prior examination and medical indication therefore, as alleged in paragraph 7, is unprofessional conduct under section 2399.5 and grounds for disciplinary action under sections 2360 and 2361.

9. Prescribing controlled substances for persons not under his treatment for a pathology or condition, as alleged in paragraph 7, is a violation of Health and Safety Code section 11154 and is unprofessional conduct under sections 2360 and 2361.

Wherefore, complainant prays that respondent's license be suspended or revoked, or that the Board take such other action as is deemed proper or necessary.

DATED: June 21, 1979

  
 ROBERT ROWLAND  
 Executive Secretary  
 Board of Medical Quality  
 Assurance

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of  
ADOLPHUS A. BERGER, M. D.,  
Respondent.

No. D-288

DECISION

The attached Proposed Decision of the Hearing Officer is hereby adopted by the Board of Medical Examiners of the State of California as its decision in the above-entitled matter.

This decision shall be effective on the 30th  
day of July, 1955.

IT IS SO ORDERED this 29th day of June,  
1955.

BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF CALIFORNIA

By

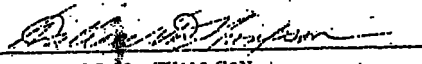
  
WALLACE W. THOMSON  
Executive Secretary

EXHIBIT A

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of  
ADOLPHUS A. BERGER, M. D.  
Respondent.

No. D-288

PROPOSED DECISION

The above-entitled matter came on regularly for hearing upon an Accusation and Supplemental Accusation on April 7, 1955, before Harold A. Furst, Hearing Officer, at San Francisco, California. The Board of Medical Examiners of the State of California was represented by Dan Kaufmann, Deputy Attorney General. The respondent, Adolphus A. Berger, M. D., was present and was represented by Leslie C. Gillen, attorney at law of San Francisco, California. Evidence both oral and documentary was introduced, the proceedings were phonographically reported, the matter submitted, and the hearing closed. After due consideration, the Hearing Officer makes the following findings of fact:

I

At all times herein mentioned, except in Finding of Fact II herein below, complainant, Archie D. Ross, has been and now is a Special Agent for the Board of Medical Examiners of the State of California, and made and filed the Accusation and Supplemental Accusation herein in his official capacity as such and not otherwise.

II

Respondent, Adolphus A. Berger, M. D., was, on or about the first day of December, 1926, issued a Physician's and Surgeon's certificate by the Board of Medical Examiners of the State of California, authorizing him to practice medicine and surgery in said State, and at all times herein mentioned subsequent to said date, the respondent was and now is licensed by said Board to practice medicine and surgery in the State of California.

III

With respect to the matters contained in paragraph III of the Accusation on file herein, counsel for the State Board of Medical Examiners moved that said allegations be dismissed.

IV

With respect to the matters contained in paragraph II of the separate, second and distinct further charge and cause of action of the Accusation on file herein, counsel for the State Board of Medical Examiners moved that said allegations be dismissed.

V

With respect to the separate, third and distinct further charge and cause of action in said Accusation it is true that respondent has been guilty of unprofessional conduct in that he did aid and abet one Inez L. Burns in the performance of an attempted abortion upon the person of one Adrienne Scheuplein, also known as Kathryn P. [REDACTED], on or about October 22, 1952.

VI

With respect to the matters contained in paragraph II of the separate, fourth and distinct further charge and cause of disciplinary action contained in the Supplemental Accusation on file herein, it is true that respondent, on or about the 9th day of February, 1953, in a proceeding then pending in the Superior Court of the State of California, in and for the City and County of San Francisco entitled "The People of the State of California, Plaintiff vs. Inez L. Burns and Adolphus A. Berger, Defendants", No. 48031, the defendant was convicted of a felony and a crime involving moral turpitude, to wit: Attempted abortion.

VII

By way of mitigation respondent has shown that he has practiced medicine for many years and bears the respect of a considerable number of his fellow practitioners in San Francisco.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Hearing Officer makes the following determination of the issues presented:

I

Respondent has been guilty of unprofessional conduct contrary to the provisions of Sections 2377 and 2378 of the Business and Professions Code of the State of California in the manner set forth hereinabove in Finding of Fact V which constitutes grounds for disciplinary action.

II

Respondent has been guilty of unprofessional conduct contrary to the provisions of Section 2383 of said Business and Professions Code in the manner set forth in Finding of Fact VI hereinabove.

III

The matters contained in Finding of Fact VII hereinabove have been taken into consideration in the following order.

\* \* \* \* \*

WHEREFORE, the Hearing Officer proposes the following order:

1. That the license of Adolphus A. Berger, M. D., respondent above-named, to practice as a physician and surgeon in the State of California, be and the same is hereby revoked.

2. That the effectiveness of this order of revocation is hereby stayed for a period of five (5) years during which respondent is placed upon probation to the Board of Medical Examiners of the State of California, upon the following terms and conditions:

- (a) That respondent shall abstain from the practice of medicine and surgery in the State of California for a period of one (1) year from and after the effective date of this order.
- (b) That respondent shall not be guilty of any further violations of the Business and Professions Code of the State of California relating to the profession of respondent.
- (c) Respondent shall comply with all of the laws of the United States and of the State of California and with the rules and regulations of the Board of Medical Examiners of the State of California.

(d) Respondent shall report in person to the Board of Medical Examiners of the State of California at its next and subsequent annual meetings in San Francisco during the period of probation hereinabove set forth.

3. Respondent shall file with the Board of Medical Examiners of the State of California at its office at 1020 N Street, Sacramento, California, at quarterly intervals after the effective date of this order, an affidavit setting forth respondent's then present residence and office addresses together with the name of any employer, partner or associate, if any. Said affidavit shall set forth, if such be the case, that respondent has fully and faithfully complied with all of the terms and conditions of probation herein imposed; if respondent has failed to comply with any of the terms and conditions of probation, or has committed any acts in violation of this order, the same shall be fully set forth and explained in said affidavit. Failure to file this affidavit or to include therein the items above specified shall constitute a violation of the terms of probation.

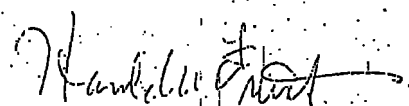
4. That upon full compliance with the terms and conditions herein set forth, and upon the expiration of the terms of probation, said license shall be restored to its full privileges, free and clear of the terms of probation herein imposed; provided, however, that in the event respondent violates or fails to comply with any of the terms or conditions of this order during said period

of probation, the Board, upon receipt by it of satisfactory evidence thereof, may forthwith terminate said probation, cancel and revoke said stay of execution and direct that the order of revocation herein made shall become immediately effective.

5. That this Proposed Decision, if adopted by the Board of Medical Examiners of the State of California, shall become effective upon the date ordered by said Board.

I hereby certify that the foregoing constitutes my proposed decision in the above-entitled matter, as a result of the hearing had before me April 7, 1955, at San Francisco, California, and I hereby recommend its adoption as the decision of the Board of Medical Examiners of the State of California.

DATED: April 20, 1955.

  
HAROLD A. FURST, Hearing Officer